



## UNITED STATES PATENT AND TRADEMARK OFFICE

Office

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**COPY MAILED**

SEP 26 2006

*Director's Office  
Office of Patent Publication*

In re Application of	:	<b>COPY MAILED</b>
<u>Lerrick, J. Frederick JR. et al.</u>	:	SEP 26 2006
Application No. 09/251,297	:	<i>Director's Office Office of Patent Publication</i>
Filed: February 17, 1999	:	<b>DECISION ON PETITION</b>
Attorney Docket No. KMH-029COMB	:	

This is a decision on the Petition Under 37 CFR 1.181 To Withdraw Holding Of Abandonment, received in the United States Patent and Trademark Office (USPTO) on September 21, 2006.

The petition is **DISMISSED**.

Any request for reconsideration of this decision, **or** as explained below, filing a petition seeking revival under 37 CFR § 1.137, must be submitted within TWO (2) MONTHS from the mail date of this decision.

The application was held abandoned for applicant's failure to timely file corrected drawing, as required in the Notice of Allowability mailed January 17, 2006. The Notice of Abandonment was mailed on June 7, 2006.

Petitioner states that "Upon checking with the Office of Publications on June 12, 2006, however, applicants' counsel learned that corrected drawings filed October 7, 2005, were, in fact, already received by the Office." Petitioner has submitted a copy of Transmittal Of Replacement Drawing Sheets and 17 replacements sheets of drawing.

As previously noted, the Notice of Allowability mailed January 17, 2006 did in fact require corrected drawings by the Examiner.

Applicant, is advised, that where a requirement is made, in this case the Notice of Allowability, and no petition is filed within the period set forth in 37 CFR §1.181(f) traversing the requirement made in the Notice of Allowability, petitioner is assumed to have acquiesced to the requirement. Therefore, this application became abandoned for failure to timely file corrected formal drawings or to file a grantable petition traversing the requirement for formal drawings.

When confronted with this situation, whereas applicant contends that drawings were filed on October 7, 2005, prior to the mailing of the Notice of Allowability, in the future, applicant may timely reply in writing (see 37 CFR § 1.2) and traverse such a requirement much as was done in the petition. Also, Applicant has the option to contact the examiner, requesting that he or she, in an Examiner Interview Summary Form or a Supplemental Notice of Allowability, which must be mailed prior to the expiration of the period for reply, upon reconsideration, withdraw any outstanding requirement.

Applicant may seek relief by filing a petition for Revival of Abandoned Application under CFR § 1.137 (a) or (b). (Forms are available at USPTO website <http://www.uspto.gov>)

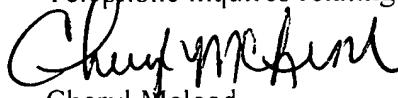
- Under 37 CFR 1.137(a), a petition for the revival of an *unavoidable* abandoned application
- Under 37 CFR 1.137(b), a petition for the revival of an *unintentionally* abandoned application

Telephone inquires relating to the filing of the Petition under 37 CFR 1.137 should be directed to the Office of Petitions at 571-272-3282 or further correspondence with respect to this matter should be addressed as follows:

*By mail:*

Mail Stop Petitions  
Commissioner For Patents  
P O Box 1450  
Alexandria, VA 22313-1450

Telephone inquires relating to this decision may be directed to the undersigned at 703-308-9250.

  
Cheryl McLeod  
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Office of the Director  
Office of Patent Publications